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DEPT FOR G/TIP, G, INL, DRL, PRM, AND SCA/RA
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E.O. 12958: N/A
TAGS: [KCRM](#) [PHUM](#) [KWMN](#) [SMIG](#) [KFRD](#) [ASEC](#) [PREF](#) [ELAB](#) [EAID](#)
IN, NP
SUBJECT: 2008 TRAFFICKING IN PERSONS REPORT

REF: SECSTATE 02731

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The following is Embassy Kathmandu's submission for the 2008 Trafficking in Persons Report.

1. OVERVIEW OF NEPAL'S ACTIVITIES TO ELIMINATE TRAFFICKING IN PERSONS

-- A. Is the country a country of origin, transit, and/or destination for internationally trafficked men, women, or children? Provide, where possible, numbers or estimates for each group; how they were trafficked, to where, and for what purpose. Does the trafficking occur within the country's borders? Does it occur in territory outside of the government's control (e.g. in a civil war situation)? Are any estimates or reliable numbers available as to the extent or magnitude of the problem? What is (are) the source(s) of available information on trafficking in persons or what plans are in place (if any) to undertake documentation of trafficking? How reliable are the numbers and these sources? Are certain groups of persons more at risk of being trafficked (e.g. women and children, boys versus girls, certain ethnic groups, refugees, etc.)?

Nepal is a country of origin for the trafficking of women, men and children. Trafficking of persons from Nepal occurs for various purposes: women are trafficked to India and the Middle East for sexual exploitation; women and men are trafficked to other Asian countries such as Malaysia and South Korea, the Middle East, including Saudi Arabia, Bahrain, Qatar and the United Arab Emirate and through the Middle East to countries such as Afghanistan and Iraq for labor exploitation; and children are trafficked to India for labor exploitation, prostitution or circus acts. In addition there is growing number of women and girls who are being internally trafficked to cabin restaurants (restaurants offering the services of prostitutes - some with partitions in between the tables or separate rooms), dance bars and massage parlors in Nepal's larger cities and along major transportation routes. There is also indications of trafficking for organ transplants.

There is a lack of accurate and reliable data on trafficking in Nepal. Statistics on trafficking cases have not been maintained by any one organization. Non-Government Organizations (NGOs), the Ministry of Women, Children and Social Welfare (MWCSW), the Ministry of Labor and Transport Management (MLTM), the Home Ministry's Immigration Department, the Nepal Police and other Government Ministries have limited information which is scattered and duplicative. Moreover, victims do not report cases for social and personal

reasons, and the slow-moving legal system, corruption and lack of awareness further skew data.

Although estimates are unreliable, it is believed that anywhere from 5,000 to 15,000 women and girls are trafficked to India and then some onward to the Middle East each year. Maiti Nepal (a Nepali NGO) reports 5,000 to 7,000 women and girls are trafficked from Nepal each year while the International Labor Organization (ILO) estimates 12,000. In 2007, the United Nations Office of Drugs and Crime (UNODC), Regional Office for South Asia, announced that their data revealed that 10,000 to 15,000 girls were trafficked from Nepal to India. In addition, preliminary research using data from the latest UNAIDS survey of the 30,000 female commercial sex workers in Nepal, indicates that between 5,000 and 7,500 girls are trafficked into the domestic sex trade each year.

Traffickers in Nepal are for the most part a loose network of individuals looking to profit from the movement of persons.

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They are often introduced to potential victims by friends and family. Trafficking victims are tricked, coerced, sold and forced to live and work under slave-like conditions as prostitutes, domestic workers, sweatshop, construction or agricultural laborers, bonded laborers, or wives. False information about the nature of employment, false promises of employment abroad or foreign exchange study programs, debt bondage and false marriages continue to be the main strategies used by traffickers. More than half of the victims are trafficked as minors by people they know, including their parents, husbands and other family members. Traffickers often trick girls' families into believing their daughters will obtain good jobs in India and will be able to send money home. Some families knowingly sell their daughters or coerce their daughters into arranged marriages. Some victims are drugged and taken by force. Vulnerable women and girls from more remote areas are often trafficked using a two-step process. First the traffickers bring the victims to small manufacturing companies (including carpet, garment, stone quarries and brick factories) and then claim that the job promised did not work out. After the girls are separated from their family and community support systems the alternative job that is sexually exploitive is then presented. Similarly, individual brokers and fraudulent manpower agencies dupe unsuspecting labor migrants into believing they will be provided beneficial job opportunities outside the country.

Most trafficking victims are illiterate and from the lowest socio-economic groups, although more affluent families are not immune to schemes involving false promises for higher education. Traffickers target single women and girls from traditionally marginalized groups, such as Dalits (formerly known as untouchables) and Janajatis (indigenous nationalities), in remote communities with a trafficking history. The bulk of internal trafficking victims comes from similar communities in the districts around Kathmandu and from remote communities in the Terai. Tamang (a janajati group) are still favored for trafficking to India where they bring a higher price. Boys are most often trafficked into exploitative labor situations, including embroidery factories, circuses and domestic servitude. The exploitation of labor migrants is a problem in all communities. Poorer, ignorant or greedier migrants who choose independent manpower agents as opposed to recognized companies are at greater risk.

-- B. Please provide a general overview of the trafficking situation in the country and any changes since the last TIP Report (e.g. changes in direction). (Other items to address may include: What kind of conditions are the victims trafficked into? Which populations are targeted by the traffickers? Who are the traffickers/exploiters? Are they independent business people? Small or family-based crime groups? Large international organized crime

syndicates? What methods are used to approach victims? (Are they offered lucrative jobs, sold by their families, approached by friends of friends, etc.?) What methods are used to move the victims (e.g., are false documents being used?). Are employment, travel, and tourism agencies or marriage brokers involved with or fronting for traffickers or crime groups to traffic individuals?

The ongoing impact of the Maoist insurgency from 1996 to 2006, internal displacement, poor economic conditions and the corresponding increasing attractiveness of foreign employment have had the greatest impact over the last year on the direction and patterns of human trafficking in Nepal.

In the past, young women under 18, mostly from underprivileged groups and castes were most at risk of being

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trafficked. However, unemployment, displacement and migration caused by the continuing political instability and a weak economy have influenced trafficking, irrespective of ethnicity or caste. Most of Nepal's trafficking victims are still taken across Nepal's open border with India where they are sold into Indian brothels. In these cases, no documentation is necessary and the operations are run by small groups of people who have been involved in the process before. However, false documents have been found in investigations related to labor exploitation in Gulf countries where there are indications of connections with international rackets. Traffickers are also using manpower agencies to target migrant women. They help women obtain passports and papers before trafficking them into sex work in India and elsewhere.

NGOs working in this area suggests that internal trafficking is increasing at an alarming rate. Over the past year, as the tourist industry in Nepal has improved, the domestic sex industry has grown dramatically and women and girls from remote districts are being brought into Kathmandu's cabin restaurants and massage parlors to meet the growing demand. Despite the fact that younger and younger girls are being engaged, the Government of Nepal (GON) has made no serious effort to regulate places providing adult entertainment. There are increasing reports of criminal enforcers who are taking protection money from the girls in sexually exploitive work and middle men who are recruiting young girls for the increasing number of such establishments. There are also reports that trafficked victims already in the sex trade are being used to recruit new victims. Threats of exposure in their communities, physical violence and false promises of being allowed to leave are used to encourage victims to recruit new girls.

Remittances from overseas laborers have become an important component of Nepal's labor market and GDP. The Ministry of Labor and Transport Management (MLTM) reported that there are now an estimated 2.1 million Nepalis working abroad in countries other than India. The number of workers going abroad grew by 24 percent in 2007. According to official data, 561 Nepali youth are leaving the country through official channels each day and at least an equal number are leaving unofficially. Nepali migrant workers are in 32 different countries, but Malaysia, Qatar, Saudi Arabia and the United Arab Emirates absorb over 93 percent of these workers.

Nepal's labor migration system is largely undeveloped and trafficking of migrant workers into exploitative labor is a growing problem. A number of these workers have been exploited, coerced or placed in bonded labor situations. Men are misled by employment agencies or brokers with promises of good jobs in hotels or in construction. Upon arrival, they are forced into different work than expected. On average, 15 migrant worker return to Nepal each day who have experienced problems. These range from false job information and fraud, to more serious problems such as finding themselves in

severely exploitative work and imprisonment. Nepalis are often trafficked into the most dangerous work environments without adequate information or protection. In 2007, 754 Nepali migrant workers died abroad.

During the decade-long Maoist insurgency, the Maoists abducted or lured children into the ranks of the People's Liberation Army (PLA), particularly in more remote regions of Nepal. The November 2006 Comprehensive Peace Agreement (CPA) ending the conflict in Nepal mandated the protection of children associated with armed forces and armed groups by committing to their immediate release and rehabilitation. In spite of these commitments, reports indicate that in late

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2006 and early 2007 the PLA continued to recruit children in order to swell their ranks as they entered into UN monitored cantonment sites as required by the CPA. Through a UN verification process, completed in December of 2007, a total of 2,973 children were identified in the cantonment camps. These children have resided in the cantonment sites since November 2006, separated from their families and without access to education. A donor group led by UNICEF and dedicated to the release and reintegration of Children Associated with Armed Forces and Armed Groups (CAAFAG) has encouraged the GON, which now includes the Maoists, to accelerate procedures to release the minors from the cantonment sites and stands ready to provide support for reintegration and rehabilitation.

In Nepal, one of every three children is a child laborer with an estimated 2.6 million children between the ages of five and fourteen working on farms, in factories, in businesses, or in other people's homes. According to the Nepalese Youth Foundation, there are over 20,000 indentured domestic workers. Many families are tricked into agreements by local middlemen and, unknowingly, send their children into slave-like conditions. Most of the girls are brought to households in Nepal's cities and towns where they become domestic servants.

Although the GON formally abolished the Kamaiya Labor System (bonded laborers) on July 17, 2000 and enacted the Kamaiya Labor (Prohibition) Act in 2001, seven years later, hardship continues to be a reality for thousands of former Kamaiya who are among the poorest and most neglected Nepalese citizens. There are an estimated 125,000 Kamaiya children but only 40 percent of them are able to attend school due to food insecurity and extreme poverty. Eighty percent of them are working as domestic servants in exploitative conditions and most are paid less than USD 12 per year. Less than half of the Kamaiya families received the land they were entitled to under the law, while the rest livelike nomads in makeshift huts wherever they find empty space. In addition, another form of agricultural bonded labor continues to be prevalent across the country. According to a recent study by the International Labor Organization (ILO), entire families are bound to work as unpaid laborers under a system known as Haliya/Hali (land tillers) or Haruwa-Charuwa (cattle herders). Lack of access to alternative sources of livelihood or education and debt bondage perpetuate this system.

-- C. Which government agencies are involved in anti-trafficking efforts and which agency, if any, has the lead?

There are a number of ministries and government agencies involved in anti-trafficking efforts. These include the Ministry of Women, Children and Social Welfare (MWCSW), the Ministry of Labor and Transport Management (MLTM), the Home Ministry (HM), the Ministry of Education and Culture (MEC) and the Ministry of Foreign Affairs (MFA) and other departments and agencies including the Nepal Police Women's Cell, the Department of Immigration and the Social Welfare Council. MWCSW is the lead agency to combat trafficking of

women and children; MLTM addresses trafficking for foreign employment and child labor. The Ministry of Foreign Affairs supports trafficking victims abroad.

The MWCSW is the national focal point which monitors all anti-trafficking activities within the country. The Ministry is responsible for creating an enabling policy environment to combat trafficking and has formed a National Coordination Committee and National Task Force to Combat Trafficking. The Ministry has also formed 26 District Task Forces to identify

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problems, encourage community mobilization and conduct awareness-raising activities.

The Office of the National Rapporteur on Trafficking (ONRT) under the National Human Rights Commission was established in 2002 to monitor the status of trafficking and the Government's anti-trafficking effort and there are gender focal persons in line ministries and secretariats. The Nepal Police established the Central Women and Children Service Center (WCSC) in 1996 under the command of the Criminal Investigation Department to investigate crimes against women and children, including trafficking. The program has now expanded to include WCSCs in 25 districts and includes 6 border centers. These centers are responsible for creating a strategy and programs to combat crimes against women and children.

-- D. What are the limitations on the government's ability to address this problem in practice? For example, is funding for police or other institutions inadequate? Is overall corruption a problem? Does the government lack the resources to aid victims?

The Government of Nepal (GON)'s intention to combat trafficking in persons appears genuine. However, effective implementation of anti-trafficking policies is hampered by limited resources, the unstable political situation, frequent cabinet changes and rotating government officials. In addition, the absence of local government in rural areas, as a result of the insurgency severely constrains the GON's efficiency. Although the decade-long Maoist insurgency ended with the signing of the Comprehensive Peace Agreement in November 2006, the demoralized law enforcement agencies and lingering security vacuum, especially in the southern districts along the Indian border, have sharply limited GON's anti-trafficking law enforcement.

Despite these constraints, the GON's commitment to combating trafficking remains strong. In 2007 the Interim Parliament passed the "Trafficking in Person and Transportation (Control) Act 2064" (the new Anti-Trafficking Act or Act) demonstrating the GON's commitment to combat trafficking. The Act dictates stricter punishments, includes many pro-victim provisions and requires the GON to provide protection and rehabilitation to trafficking victims. However, the MWCSW does not have adequate resources to provide rehabilitation and support services and will continue to rely heavily on its relationships with local NGOs to provide shelter, rehabilitation and support for victims of trafficking.

Nepal's 1808 kilometer long open border with India further complicates the GON's efforts. Even at major border crossings, the few police are unable to effectively monitor the movement of people across the border and avoiding border checkpoints is not difficult.

Corruption is a major problem. While difficult to prove, it is apparent that many cases of trafficking that are intercepted are never prosecuted. In 2007 there was at least one report of a politician calling the police to ask for the release of several traffickers who came from his home district. The individuals involved had past trafficking convictions and were caught with young girls heading for the

Indian border.

-- E. To what extent does the government systematically monitor its anti-trafficking efforts (on all fronts -- prosecution, victim protection, and prevention) and periodically make available, publicly or privately and directly or through regional/international organizations,

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its assessments of these anti-trafficking efforts?

The Office of the National Rapporteur on Trafficking (ONRT) under the National Human Rights Commission was established in 2002 to monitor the status of trafficking and the Government's anti-trafficking efforts. The ONRT was tasked with developing a reporting system, monitoring and investigating trafficking and the care of trafficking victims, conducting promotional activities to raise awareness, monitoring and reviewing national policies, plans and laws for effective implementation and developing an anti-trafficking network at the national, regional and international level to respond to cross-cutting issues. The ONRT released its first report in 2006. The second report for 2006/2007 has not yet been released, but will be based on field research and focus on the status of trafficking in the mid- and far-western regions of the country.

ONRT is also developing a systematic trafficking reporting system that will involve Nepal's 26 anti-trafficking District Task Forces and local NGOs. ONRT has prepared monitoring indicators in consultation with relevant stakeholders and has initiated the process for monitoring programs at the district level in collaboration with Women Development Officers (WDOs). The GON has designated a WDO in each district to monitor anti-trafficking initiatives in collaboration with ONRT.

The Nepal Police Women's Cell maintains records of trafficking cases filed and publishes them in an annual report. The Attorney General's office also keeps records of trafficking prosecutions, and compiles and publishes them on an annual basis in accordance with the Nepali fiscal year (July 15 through July 14). (Note: The report for 2006/2007 has not yet been published. End Note)

12. INVESTIGATION AND PROSECUTION OF TRAFFICKERS:

For questions A-D, posts should highlight in particular whether or not the country has enacted any new legislation since the last TIP report.

-- A. Does the country have a law specifically prohibiting trafficking in persons--both for sexual and non-sexual purposes (e.g. forced labor)? If so, please specifically cite the name of the law and its date of enactment and provide the exact language of the law prohibiting TIP and all other law(s) used to prosecute TIP cases. Does the law(s) cover both internal and external (transnational) forms of trafficking? If not, under what other laws can traffickers be prosecuted? For example, are there laws against slavery or the exploitation of prostitution by means of force, fraud or coercion? Are these other laws being used in trafficking cases? Please provide a full inventory of trafficking laws, including non-criminal statutes that allow for civil penalties against alleged trafficking crimes, (e.g., civil forfeiture laws and laws against illegal debt).

On July 24, 2007 the Interim Parliament passed a new anti-trafficking act entitled "Trafficking in Persons and Transportation (Control) Act 2064" (the new Anti-Trafficking Act or Act). The Act came into force the same day and applies to any person, inside or outside of Nepal, who trafficks a Nepali citizen.

The Act broadly defines the crime of trafficking in persons as: (a) selling or buying a person with any purpose; (b)

causing to be engaged in prostitution by receiving or not receiving benefit of any kind; (c) removing human organs, unless otherwise allowed by law; and (d) having sexual intercourse with a prostitute. The crime of transportation

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of persons is defined as (a) taking a person to a foreign country with the purpose of selling or buying; (b) taking by separating from the house, place of abode or having control over or keeping with him/her or harboring or taking from one place to another place within Nepal or to a foreign country or handing over to somebody a person by enticement, misrepresentation, fraud, deception, force, coercion, abduction, taking hostage, taking benefit or vulnerability, making unconscious, abusing post or power or alluring, causing fear, giving threat or coercing to be engaged in prostitution or exploitation.

Any person having the knowledge that one of these offenses has been or is or is about to be committed may file a complaint with the police. The Act allows for arrest and search without a warrant if immediate action is required to prevent the offender from fleeing and/or the destruction of evidence.

The new Act contains a number of provisions to provide stronger protection for trafficking victims. The Act shifts the burden of proof to the defendant, allows for in-camera hearings at the victim's request and stipulates that the victim need not reconfirm his or her statement in court after s/he has given it in the first instance. Victims are granted the right to act in self-defense even if the trafficker is injured or killed in such an act.

The Act also contains provisions for the rescue and rehabilitation of trafficking victims. The Act requires the GON to "make arrangements for rescue of a Nepali citizen sold in a foreign country" and to "establish rehabilitation centers" to provide medical treatment, counseling and social rehabilitation. The Act calls for the GON to establish a "rehabilitation fund" for operation of the centers. One half of all the money received in fines under the Act will go to support the fund.

The new Act is a positive step in the fight against trafficking, however the Act will be difficult to implement. Many of the provisions, such as fines and imprisonment for sex with a prostitute, will be hard if not impossible to enforce. The Act does not differentiate between children and adults in many sections which may make proving fraud in cases of employment difficult in some cases. Moreover, the GON clearly lacks the resources necessary to provide most of the mandated services, such as rehabilitation centers and in-camera courts.

In addition to this new Act, there are other laws and legal documents prohibiting trafficking. Article 20 of the Interim Constitution specifically prohibits any trafficking in human beings, slavery, serfdom or forced labor in any form. The 1992 Labor Act also prohibits certain forms of trafficking related to forced labor. In November 2007, the Interim Parliament passed a new law making abduction or hostage taking a criminal offense, punishable by 4 to 15 years imprisonment and a fine of Nepali Rupees (NPs) 25,000 to 200,000 (USD 400 to 3,200) with longer sentences for crimes involving female or child victims. It is noteworthy that these crimes are not bailable.

-- B. What are the prescribed penalties for trafficking people for sexual exploitation? What penalties were imposed for persons convicted of sexual exploitation over the reporting period? Please note the number of convicted sex traffickers who received suspended sentences and the number who received only a fine as punishment.

The Anti-Trafficking Act includes stringent provisions of 20

years' imprisonment and a fine of up to NRs 200,000 (USD

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3,200) for selling or buying a person and a provision of 10 to 15 years and a fine of NRs 50,000 to 100,000 (USD 800 to 1,600) for those found guilty of forcing another person into prostitution. A person found guilty of trading human organs faces a jail term of 10 years and a fine of NRs 200,000 to 500,000 (USD 3,200 to 8,000). The bill also has a provision to punish brothel customers with a jail term of one to three months and a fine of NRs 2,000 to 5,000 (USD 30 to 70). Those found guilty of taking women abroad for the purpose of prostitution face between 10 and 15 years in prison and a fine of NRs 50,000 to 100,000 (USD 800 to 1,600). If the crime involves a child, the punishment is increased to 15 to 20 years imprisonment and a fine from 100,000 to 200,000 (USD 1600 to 3200). The Act also has a provision to punish traffickers for transporting human beings for the purpose of exploitation, including prostitution, within Nepal. When the victim is over 18, the punishment is 10 years with a fine of NRs 50,000 to 100,000 (USD 800 to 1,600). If the victim is a child, the punishment is 10 to 12 years with a fine of NRs 100,000 (USD 1,600). Penalties increase by 25 percent if the offense is committed by a person holding a public post, by 10 percent if the offense is committed by the victim's guardian and by 25 percent for repeat offenders. The Act calls for the victim to receive at least 50 percent of the fine imposed on the offender. The remaining 50 percent of the fines imposed goes to a fund to support victim rehabilitation.

-- C. Punishment of Labor Trafficking Offenses: What are the prescribed and imposed penalties for trafficking for labor exploitation, such as forced or bonded labor and involuntary servitude? Do the government's laws provide for criminal punishment -- i.e. jail time -- for labor recruiters in labor source countries who engage in recruitment of laborers using knowingly fraudulent or deceptive offers that result in workers being trafficked in the destination country? Are there laws in destination countries punishing employers or labor agents in labor destination countries who confiscate workers' passports or travel documents, switch contracts without the worker's consent as a means to keep the worker in a state of service, or withhold payment of salaries as means of keeping the worker in a state of service? If law(s) prescribe criminal punishments for these offenses, what are the actual punishments imposed on persons convicted of these offenses? Please note the number of convicted labor traffickers who received suspended sentences and the number who received only a fine as punishment.

On August 12, 2007, the Interim Parliament passed an amended and revised Foreign Employment Act 2007 (the Employment Act).

Under this new Employment Act, the punishment for labor trafficking is 3 to 7 years of imprisonment and NRs 300,000 to 500,000 (USD 5,000 to 8,000). In line with the Employment Act, the GON has also published supporting regulations. Some of the provisions in the revised Employment Act and regulations include:

-- New licensing requirements that include a NRs 3 million (USD 47,500) deposit in order to obtain a license to supply workers for overseas jobs.

-- The creation of a Foreign Employment Welfare Fund to be used for the benefit of Nepali migrant workers. The fund is a response to the growing cases of death, job displacements, deportations and industrial accidents involving Nepalis workers in foreign destinations. Each migrant worker is required to contribute NRs 500 (USD 8) to the fund which will be used mainly to rescue workers and repatriate remains of deceased workers. In addition, the law requires each worker to have insurance worth NRs 500,000 (USD 8,000) before leaving for foreign employment.

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-- Provisions for the protection of the rights of migrant workers and provisions to make foreign employment safe, manageable and dignified. There are now specific provisions for pre-employment orientation of workers, registration and reintegration.

-- Elimination of gender discrimination in foreign employment opportunities and quotas for women and other socially excluded groups to ensure equal opportunity in foreign employment.

-- Simplified procedures for foreign employment with provisions for branch offices of recruiting agencies and official agents; specialized departments and agencies will handle foreign employment issues.

In addition, the Employment Act granted the MLTM the authority to enter into agreements for the export of labor. Since the passage of the Employment Act, Nepal has signed labor agreements with the United Arab Emirates (July 3, 2007), South Korea (July 23, 2007) and Qatar (January 20, 2008) and the GON is currently working on an agreement with Malaysia. Bahrain and Kuwait have also shown interest in entering into labor agreements with Nepal. These bilateral agreements will help to ensure the workers greater job and personal security and provide them legal status in the country of employment.

Nepal does not have diplomatic representation in many of the countries that are open for foreign employment and over the last year there have been a number of incidents where Nepali migrant workers were stranded, fired or arrested and had no legal recourse. The Labor Act requires the government to deploy labor attaches in countries absorbing more than 5000 Nepali workers, however, the GON has not yet been able to deploy any labor attaches. Both Israel and Kuwait banned Nepali workers until Nepal opened an embassy to handle labor issues. In early 2008, the GON established an Embassy in Israel and entered into an agreement to send laborers to Israel through the International Organization for Migration (IOM).

The MLTM has mechanisms in place for migrant workers to file complaints. In 2007, the MLTM registered 709 cases filed by migrant workers against companies and individuals. There were 332 cases filed against manpower companies; of these 10 were eventually filed in the District Court. There were 377 cases filed against individuals; of these 101 cases were also filed in the District Court. The remaining cases were resolved through mediation. Most of the complaints were for fraud and deception; companies or individuals were accused of taking money from workers in return for promised employment overseas which was never provided. Other claims were for forced return due to fraudulent medical reports. The majority of cases were for differences between the stipulated provisions and salary in the contract and at the work site. According to the MLTM, claimants demanded compensation of NRs 73.3 million (USD 1.16 million) in 2007. A total of NRs 40.5 million (USD 643,000) was paid to victims as compensation. Victim compensation is determined according to the Foreign Employment Act and manpower or employment companies found guilty risk losing their licenses issued by the MLTM.

-- D. What are the prescribed penalties for rape or forcible sexual assault? How do they compare to the prescribed penalties for crimes of trafficking for commercial sexual exploitation?

The maximum sentence for trafficking for commercial sexual exploitation is higher than the maximum sentence for rape or

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forcible sexual assault. Penalties for rape vary with the

age of the victim. If the victim is under 10, jail sentences of up to fifteen years are possible. If the victim is between 10 and 14 years of age, the penalty is imprisonment for 8 to 12 years. If the victim is between 14 and 16, the penalty is 6 to 10 years. For victims 16 and over, the maximum sentence is eight years. The penalty for marital rape is 3 to 6 months. In all cases the property of the accused is given to the victim as compensation. In addition, the new Anti-Trafficking Act provides for the accused to be punished under both laws if the victim is both raped and trafficked.

-- E. Is prostitution legalized or decriminalized? Specifically, are the activities of the prostitute criminalized? Are the activities of the brothel owner/operator, clients, pimps, and enforcers criminalized? Are these laws enforced? If prostitution is legal and regulated, what is the legal minimum age for this activity? Note that in many countries with federalist systems, prostitution laws may be under state or local jurisdiction and may differ among jurisdictions.

The new Anti-Trafficking Act criminalizes the act of "causing (a person) to be engaged in prostitution" and "having sexual intercourse with a prostitute," but this law is not enforced.

The police engage in periodic raids of massage parlors, dance bars and cabin restaurants. The girls are often taken into the police station, harassed and fined and then returned to continue business. The owners are rarely investigated or charged. Nepali national law is silent regarding prostitution. In practice, however, prostitutes are frequently treated as criminals for violating public decency under the Public Offense Act.

-- F. Has the government prosecuted any cases against human trafficking offenders? If so, provide numbers of investigations, prosecutions, convictions, and sentences served, including details on plea bargains and fines, if relevant and available. Please indicate which laws were used to investigate, prosecute, convict, and sentence traffickers.

Also, if possible, please disaggregate by type of TIP (labor vs. commercial sexual exploitation) and victims (children, as defined by U.S. and international law as under 18 years of age, vs. adults). Does the government in a labor source country criminally prosecute labor recruiters who recruit laborers using knowingly fraudulent or deceptive offers or impose on recruited laborers inappropriately high or illegal fees or commissions that create a debt bondage condition for the laborer? Does the government in a labor destination country criminally prosecute employers or labor agents who confiscate workers' passports/travel documents, switch contracts or terms of employment without the worker's consent, use physical or sexual abuse or the threat of such abuse to keep workers in a state of service, or withhold payment of salaries as a means to keep workers in a state of service? Are the traffickers serving the time sentenced? If not, why not? Please indicate whether the government can provide this information, and if not, why not?

The Government, through the Central Police Women's Cell and district women's cells, actively investigates cases of trafficking. However, the Government acknowledges it lacks the trained manpower necessary to effectively investigate trafficking cases. While no legal restrictions prevent the police from conducting covert operations or electronic surveillance, poor training, rudimentary equipment and lack of recourse often prevent the police from conducting effective investigations. Poor investigations and lack of evidence, in turn, hinder prosecutions. Between July 2006 and July 2007, the Nepal Police Women's Cell filed 112

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trafficking cases. In addition, two Nepali NGOs report separately they filed over 150 cases -- with Maiti Nepal registering 27 trafficking cases and Saathi registering 135 cases. (Note: Saathi reports that only 3 out of the 135 are

still under consideration. End Note)

The most recent data available on prosecutions comes from the Attorney General's Annual Report. The most recent report covers the time period of July 15, 2005 through July 14, 2006. (Note: This is the same data that was used for last year's report. The Attorney General's office reports that it has not yet received data from all the districts, so has yet to publish the 2006/2007 report.)

Government information on sentences and fines is difficult to obtain as anti-trafficking cases are not aggregated in a specific category, but rather among other diffuse categories such as fraud and corruption.

The GON prosecutes labor recruiters who recruit workers using knowingly fraudulent or deceptive offers or who impose inappropriately high or illegal fees or commissions that create a debt bondage condition for the recruited laborers. In the 2006/2007 fiscal year, 709 cases were filed with the MLTM, 111 of these cases were subsequently filed in the District Courts and in 10 cases the labor company's license was revoked.

During the reporting period, there were labor trafficking cases in Malaysia and Korea, where local courts have assisted Nepali workers in obtaining redress from employers. There was one case in the Labor Court in Saudi Arabia involving five laborers. One of the accused has been given a death sentence. The GON is using diplomatic channels and informal talks to obtain the latter laborers release before the death sentence is carried out.

-- G. Does the government provide any specialized training for government officials in how to recognize, investigate, and prosecute instances of trafficking? Specify whether NGOs, international organizations, and/or the USG provide specialized training for host government officials.

As part of an anti-trafficking initiative begun in 1996, the Nepal Police trained a limited number of personnel in the investigation of trafficking. Most training programs of this type are developed and administered by Nepal Police Women's Cell and NGOs. The Nepal Police Women's Cell now operates 25 Women

and Children Service Centers in 23 districts that provide training to local police on victim support techniques; provide victims counseling; and raise public awareness about violence against women and children. Despite extremely limited funding, the GON supports these programs to the best of its ability by providing facilities and making its personnel available to participate.

The National Judicial Academy (NJA), established in 2005 as an annex of the Supreme Court, provides training to judges, government attorneys and other court staff. The NJA has conducted national as well as regional workshops for judges on trafficking, focusing on a "rights-based approach" to ensure victims' rights. The NJA, in collaboration with UNIFEM and other NGOs, conducted several trainings for government officials in how to recognize, investigate and prosecute instances of trafficking and on the implementation of the new Anti-trafficking Act for 100 government officers, including government attorneys, district judges and police officers. The Attorney General's Office has indicated that the Academy requires further capacity-building to be effective. The government also has a staff college that

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provides basic training for all government employees, including a small component on gender awareness issues.

--H. Does the government cooperate with other governments in the investigation and prosecution of trafficking cases? If possible, can post provide the number of cooperative international investigations on trafficking during the

reporting period?

The GON cooperates with other governments informally in the investigation and prosecution of trafficking cases. The Nepal Police Women's Cell says it has good relations with officials in India. Currently there is no formal mechanism for cooperation and data is not compiled on such cooperation.

-- I. Does the government extradite persons who are charged with trafficking in other countries? If so, can post provide the number of traffickers extradited during the reporting period? Does the government extradite its own nationals charged with such offenses? If not, is the government prohibited by law from extraditing its own nationals? If so, what is the government doing to modify its laws to permit the extradition of its own nationals?

The government cannot extradite persons who are charged with trafficking to other countries under the Extradition Treaty of 1953, Nepal's only extradition treaty, currently in force with India. According to the 1953 Extradition Treaty, no Nepalese national can be extradited to another country; he/she must be tried in Nepal. In January 2005, the Home Secretaries of Nepal and India approved and initialed a new

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extradition treaty, which has provisions for extradition related to trafficking. However, the treaty is yet to be signed. Nepal ratified the South Asian Association for Regional Cooperation (SAARC) Convention on Preventing Trafficking in Women and Children for Prostitution and the SAARC Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia on October 31, 2005. These conventions may have implications for extradition policies in the future. To date, no Nepalese or other citizen has been extradited for trafficking.

The new Anti-trafficking Act states that the Act applies to anyone, residing inside or outside of Nepal, who commits an offense (as defined in the Act) against a Nepali citizen. However, in the absence of the necessary extradition treaties, this provision is likely unenforceable in most instances.

-- J. Is there evidence of government involvement in or tolerance of trafficking, on a local or institutional level? If so, please explain in detail.

While there are no formal reports of GON authorities facilitating, condoning or otherwise being complicit or involved in human trafficking, local anti-trafficking NGOs report that police regularly put trafficking victims back into situations where they are vulnerable to further coercion by their traffickers. Other reports indicate that local officials and border police sometimes accept bribes in exchange for allowing traffickers and their victims to cross Nepal's border with India.

In May of 2007 the Government owned Nepal Airlines Corporation (NAC) was implicated in a scheme to transport Nepali workers without the required visas to the United Arab Emirates (UAE). UAE officials warned NAC to stop bringing Nepalis to the UAE without visas. On April 23, NAC carried 22 passengers to Dubai who had no visas and no return tickets and were reportedly subsequently trafficked onward to Iraq. NAC claimed that authentic versus fake UAE visas were hard to

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distinguish. However the 22 stranded passengers had no visas at all, fake or otherwise.

-- K. If government officials are involved in trafficking, what steps has the government taken to end such participation? Please indicate the number of government officials investigated and prosecuted for involvement in trafficking or trafficking-related corruption during the

reporting period. Have any been convicted? What sentence(s) was imposed? Please specify if officials received suspended sentences, were given a fine, fired, or reassigned to another position within the government as punishment. Please provide specific numbers, if available. Please indicate the number of convicted officials that received suspended sentences or received only a fine as punishment.

No government official has been prosecuted for involvement in trafficking or trafficking-related corruption.

-- L. As part of the new requirements of the 2005 TVPRA, for countries that contribute troops to international peacekeeping efforts, please indicate whether the government vigorously investigated, prosecuted, convicted and sentenced nationals of the country deployed abroad as part of a peacekeeping or other similar mission who engage in or facilitate severe forms of trafficking or who exploit victims of such trafficking.

There was one case in Burundi of a Nepal peace-keeper allegedly charged with sexual harrassment. The accused was court martialled in 2007 and his promotion was withheld for two years. He is prohibited from taking part in any future UN peace-keeping missions. Details of the case were not publicized.

-- M. If the country has an identified child sex tourism problem (as source or destination), how many foreign pedophiles has the government prosecuted or deported/extradited to their country of origin? What are the countries of origin for sex tourists? Do the country's child sexual abuse laws have extraterritorial coverage (similar to the U.S. PROTECT Act)? If so, how many of the country's nationals have been prosecuted and/or convicted under the extraterritorial provision(s) for traveling to other countries to engage in child sex tourism?

Though Nepal has not identified a child sex tourism problem, there has been significant growth in Nepal's sex tourism industry and reports indicate that the girls being internally trafficked into dance bars, cabin restaurants and massage establishments are getting younger and younger. The average age is now around 14. The GON has taken no steps to regulate these establishments and the Nepal Tourism Board (NTB) promotes "Wild Stag Weekends" on their website which had advised, "Don't forget to have a drink at one of the local dance bars, where beautiful Nepali belles will dance circles around your pals." In response to a negative article that appeared in the Economist magazine on January 26, 2008, the NTB replied that the promotion was part of a branding exercise that was not intended to promote sex tourism, rather it was intended to "encourage holiday makers to enjoy traditional Nepali dancing, where they could mingle freely with the dancers." The promotion for "Wild Stag Weekends" remains on the NTB website, however the language has been changed.

13. PROTECTION AND ASSISTANCE TO VICTIMS:

-- A. Does the government assist foreign trafficking victims, for example, by providing temporary to permanent residency

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status, or other relief from deportation? If so, please explain.

Since Nepal is not a country of transit or destination for trafficking, the GON does not have any special provisions for foreign trafficking victims.

-- B. Does the country have victim care facilities which are accessible to trafficking victims? Do foreign victims have the same access to care as domestic trafficking victims? Does the country have specialized facilities dedicated to

helping victims of trafficking? If so, can post provide the number of victims placed in these care facilities during the reporting period? What is the funding source of these facilities? Please estimate the amount the government spent (in U.S. dollar equivalent) on these specialized facilities dedicated to helping trafficking victims during the reporting period. Does the government provide trafficking victims with access to legal, medical and psychological services? If so, please specify the kind of assistance provided, and the number of victims assisted, if available.

Nepal has limited victim care and victim health care facilities that are run primarily by NGOs and donor-funded. Through a network of NGOs, these facilities provide legal aid, medical services, counseling, job training and reintegration services to trafficking victims. In addition, there are a number of NGO-run transit homes and victim assistance centers available to provide immediate relief to women and girls intercepted at the border. These transit homes provide medical services, record the history and profile of the victims or potential victims, identify criminals and file cases where appropriate, arrange safe passage to rehabilitation facilities and run non-formal education classes. The NGOs work in cooperation and coordination with the Nepal Police Women's Cell and district-level police women's cells.

Complete records are not available for the total number of victims who have received care or services from NGOs or the Nepal Police Women's Cells. In 2007 the Central Nepal Police Women's Cell estimated it provided services to approximately 1,100 victims. Maiti Nepal, an anti-trafficking NGO with headquarters in Kathmandu and an operating budget of close to USD 1.5 million, has three prevention homes, eight transit homes, two rehabilitation homes and two hospices. Maiti Nepal provides medical, counseling, reintegration, rehabilitation and legal services to the women it rescues. In 2007, Maiti Nepal intercepted approximately 2,800 potential victims, had 220 new arrivals at its rehabilitation centers and registered 27 new trafficking cases. The Nepali NGOs ABC Nepal and Saathi operate two transit homes and in 2007 provided shelter to over 400 women and children intercepted at the border. Saathi also runs two rehabilitation centers in Banke and Kanchanpur districts and provides longer-term recovery and social reintegration services to trafficking survivors and victims of violence through its central care facility center in Kathmandu. In 2007, Saathi reports filing 135 case new trafficking cases. The INGO Planete Enfants operates four transit homes in Kanchanpur, Banke, Rupandehi and Morang (Terai districts bordering India). The Esther Benjamin Trust, an INGO, also has transit and long-term care facilities for trafficking victims rescued from Indian circuses. The NGOs follow "Standard Operating Procedure Guidelines" which guarantee a minimum standard of care and rehabilitation, based on the need to protect victims' integrity and dignity while incorporating medical, legal, psycho-social and financial support for personal and social reintegration.

-- C. Does the government provide funding or other forms of

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support to foreign or domestic NGOs and/or international organizations for services to trafficking victims? Please explain and provide any funding amounts in U.S. dollar equivalent. If assistance provided is in-kind, please specify exact assistance. Please explain if funding for assistance comes from a federal budget or from regional or local governments.

The GON does not fund foreign or domestic NGOs or international organizations. Bilateral and multilateral donors, working with the GON through the MWCSW and the Nepal Police Women's Cell, fund local and foreign NGOs to provide victim assistance, including, rehabilitation, medical care, counseling, job training, education and legal services. The

MWCSW provides free legal counseling to victims through the Nepal Women's Commission. As discussed in Section 2, the new Anti-trafficking Act requires that the GON establish rehabilitation centers to provide medical treatment, counseling and social rehabilitation services to trafficking victims and mandates the establishment of a rehabilitation fund to support these centers. The MWCSW has plans to establish three rehabilitation centers for trafficking victims, one in Kathmandu, one in Kavre and one in Kailai, but at present does not have the funds to set up the centers.

The NGO and INGO community are advocating for the GON to contract out these services to the NGOs which have the experience and capacity to operate these facilities. When fully implemented, the Act will require the GON to provide a significant amount of funding for victim assistance.

-- D. Do the government's law enforcement, immigration, and social services personnel have a formal system of proactively identifying victims of trafficking among high-risk persons with whom they come in contact (e.g., foreign persons arrested for prostitution or immigration violations)? What is the number of victims identified during the reporting period? Has the government developed and implemented a referral process to transfer victims detained, arrested or placed in protective custody by law enforcement authorities to institutions that provide short-or long-term care? How many victims were referred for assistance by law enforcement authorities during the reporting period?

The GON's law enforcement, immigration and social service personnel have very limited resources to proactively identify potential victims of trafficking, but they are operating six women and children centers at various locations along the Indo-Nepal border. In addition, several domestic NGOs, with the support of INGOs, have programs to identify potential victims at several Indian border crossing points and at major bus parks in Kathmandu. Maiti Nepal and several other NGOs have established border surveillance teams at border points. Trafficking survivors from NGO transit homes who are adept at identifying potential victims and traffickers staff these "vigilance booths" and work with the local police to identify traffickers. Several other domestic NGOs have outreach programs and information booths at the major bus parks in Kathmandu. Their outreach coordinators work to identify and provide assistance to possible trafficking victims. Data on the number of victims is incomplete, but Maiti Nepal reported intercepting over 2,700 potential victims and Saahti reported intercepting over 400. Although there is no formal screening or referral process in place to transfer victims from Government custody into local care facilities, police typically refer victims to local NGOs that maintain rehabilitation centers. Usually, the NGO that initially takes in the trafficking victim provides most of the services.

While Nepal's labor migration system is still largely undeveloped, in 2007 the MLTM, with the support of the ILO, made significant progress in addressing the myriad of

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problems surrounding labor migration. One notable initiative was the establishment of a "safe migration" desk at Kathmandu Tribhuvan International Airport in April 2007. Officials at this desk monitor the flow of migrant workers, check for proper papers and visas and provide information on worker's rights.

-- E. For countries with legalized prostitution: does the government have a mechanism for screening for trafficking victims among persons involved in the legal/regulated commercial sex trade?

Prostitution is not legalized in Nepal.

-- F. Are the rights of victims respected? Are trafficking victims detained or jailed? If detained or jailed, for how long? Are victims fined? Are victims prosecuted for

violations of other laws, such as those governing immigration or prostitution?

The GON protects and respects the rights of victims. Trafficking victims are not detained, jailed, or deported, nor are they prosecuted for violations of other laws. Child victims are placed in foster care in a government institution. The Nepal Police Central Women's Cell in Kathmandu and other district-level Women's Cells assist victims of trafficking and domestic violence. During the reporting period, the number of Women's Cells increased from 24 to 25 and the number of female police officials deployed in 37 districts increased to 308. In districts lacking a Women's Cell, victims are more likely to deal with male police officers who may not be as sensitized to trafficking crimes as the female Women's Cell officers.

During the reporting period, there have been several negative reports of police harassing and endangering victims. The police are known to engage in periodic raids of massage parlors, dance bars and cabin restaurants. The girls working in these establishments are reportedly harassed in police stations, fined and then returned to work. No effort is being made to determine the age of these girls and whether or not they are victims of trafficking. In addition, there are reports of police requiring victims to travel back to the district where they were trafficked to give their statement and confining victims in vehicles and holding rooms with their traffickers.

-- G. Does the government encourage victims to assist in any victims assisted in the investigation and prosecution of traffickers during the reporting period? May victims file civil suits or seek legal action against traffickers? Does anyone impede victim access to such legal redress? If a victim is a material witness in a court case against a former employer, is the victim permitted to obtain other employment or to leave the country pending trial proceedings? Are there means by which a victim may obtain restitution?

The GON actively encourages trafficking victims to file civil suits or seek legal action against traffickers and the new Anti-trafficking Act contains special provisions intended to protect trafficking victims such as the option of in-camera hearings and other special privacy provisions. While a step in the right direction, these provisions only add to a number of existing fragmented legal provisions on witness protection and a comprehensive law on victim protection is still needed.

USAID's South Asia Regional Initiative for Gender Equity (SARI/Q) program has finalized a draft of a victim/witness protection protocol for Nepal, India, Bangladesh and Sri Lanka. The draft remains under consideration by Nepal.

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A victim may seek legal action against a trafficker, but in reality this rarely happens. More often a victim's access to legal recourse is impeded by traffickers and sometimes the police. Until adequate protection can be provided, threats by traffickers, lack of personal security, and non-cooperative communities will continue to discourage victims from pursuing legal recourse. In most cases, the victims are too frightened of the consequence to request prosecution or take any legal action, preferring to quietly blend back into society.

If the victim is a material witness in a court case against a former employer, she/he is not permitted to obtain other employment or to leave the country until the case is over. The GON can legally provide travel and lodging expenses for trafficking victims acting as witnesses, though in practice money is rarely provided.

For labor migrants that find themselves trafficked, the MLTM investigates cases and arbitrates/mediates out-of-court

settlements. If settlement cannot be reached, if the case is too serious, or the agreed compensation is not paid, then the MLTM refers the case to the police for further action. The worst offenders are jailed. When manpower agencies are involved, their licenses are revoked.

-- H. What kind of protection is the government able to provide for victims and witnesses? Does it provide these protections in practice? What type of shelter or services does the government provide? Are these services provided directly by the government or are they provided by NGOs or IOs funded by host government grants? Does the government provide shelter or housing benefits to victims or other resources to aid the victims in rebuilding their lives? Where are child victims placed (e.g., in shelters, foster care, or juvenile justice detention centers)? What is the number of victims assisted by government-funded assistance programs during the reporting period? What is the number of victims assisted by non government-funded assistance programs? What is the number of victims that received shelter services during the reporting period?

The Nepal Police Women's Cell provides limited protection to victims. When a victim files a civil suit or makes a criminal complaint, the GON prosecutes the case at no cost to the victim. Under the new Anti-trafficking Act, the government is now required to provide at the victim's request in-camera court proceedings and victims are entitled to half the fine imposed on the accused by the court. The other half of the fine is to be used by the government for victim rehabilitation centers. Currently, the government does not have any facilities for shelter and victim services. All of the existing shelter facilities and victim services are provided by NGOs and there are no existing mechanisms for monitoring or evaluation.

Complete records are not available for the total number of victims who have received care or legal services from NGOs or the Police Women's Cells. However, the Nepal Police Women's Cell estimates it provided aid to approximately 1,100 victims in 2007. Both Maiti Nepal and Saahti provided shelter (see paragraph B), legal aid and register cases related to trafficking, rape and foreign employment with Nepali courts. In 2007, Maiti Nepal assisted in registering 27 trafficking cases in Nepali courts and Saahti 135 cases.

-- I. Does the government provide any specialized training for government officials in identifying trafficking victims and in the provision of assistance to trafficked victims, including the special needs of trafficked children? Does the government provide training on protections and assistance to

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its embassies and consulates in foreign countries that are destination or transit countries? Does it urge those embassies and consulates to develop ongoing relationships with NGOs and IOs that serve trafficked victims? What is the number of trafficking victims assisted by the host country's embassies or consulates abroad during the reporting period? Please explain the level of assistance. For example, did the host government provide travel documents for the victim to repatriate, did the host government contact NGOs in either the source or destination countries to ensure the victim received adequate assistance, did the host government pay for the transportation home for a victim's repatriation, etc.

Specialized training for government officials is very limited. The Nepal Police Women's Cell has a limited training program to build investigative capacity and several NGOs worked with the MWCSW to enhance the capacity of the district trafficking task forces by conducting two-day workshops.

Nepal's labor migration system is largely undeveloped and there is weak institutional support for safe migration

management. GON representatives at Nepali Embassies and consulates located in countries where victims are often trafficked receive information about trafficking as part of their general training but they do not receive specialized training in recognizing trafficking nor in the provision of assistance to trafficked victims.

In 2007, GON officials assisted with the repatriation of 22 laborers from Malaysia and 8 from Saudi Arabia. In general, however, Nepali Embassies lack the human and other resources to help trafficking victims who face labor exploitation in foreign countries. The Embassies provided travel documents, but the manpower companies bore all of the cost. Moreover, Nepal does not have diplomatic representation in many of the countries that are open for foreign employment and over the last year there have been a number of incidents where Nepali migrant workers were stranded, fired or arrested and had no legal recourse. Both Israel and Kuwait banned Nepali workers until Nepal opened an embassy to handle labor issues.

Over the past year the MLTM, with the support of the ILO, has worked hard to improve foreign migration and to provide Nepali citizens with more information, resources and protection. The new Foreign Employment Act authorized the MLTM to enter into labor export agreements and required the GON to deploy labor attaches in countries absorbing more than 5000 Nepali workers. To date the GON has not deployed any labor attaches. The Foreign Employment Act also mandates the creation of a Foreign Employment Welfare Fund to be used for the benefit of Nepali migrant workers. The fund will be used to rescue workers and repatriate remains of deceased workers.

There are several NGOs which are also working to make foreign migration safer. The NGO Pourakhi, an organization of returnee women migrant workers, has a radio program, established a listeners' club and is conducting awareness activities to educate potential migrants on safe migration. Maiti Nepal also offers information on safe migration.

-- J. Does the government provide assistance, such as medical aid, shelter, or financial help, to its nationals who are repatriated as victims of trafficking?

The Nepal Police Women's Cell and district cells provide assistance to repatriated nationals who are victims of trafficking by referring the victims to NGOs.

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-- K. Which international organizations or NGOs, if any, work with trafficking victims? What type of services do they provide? What sort of cooperation do they receive from local authorities? How much funding (in U.S. Dollar Equivalent) did NGOs and international organizations receive from the host government for victim assistance during the reporting period? Please disaggregate funding for prevention and public awareness efforts from victim assistance funding. NOTE: If post reports that a government is incapable of providing direct assistance to TIP victims, please assess whether the government ensures that TIP victims receive access to adequate care from other entities. Funding, personnel, and training constraints should be noted, if applicable. Conversely, the lack of political will in a situation where a country has adequate financial and other resources to address the problem should be noted as well.

According to ONRT and GON ministries, nearly 200 NGOs, and INGOs (including human rights NGOs) and the National Human Rights Commission are active in the effort to control trafficking in Nepal. Several NGOs and INGOs have rehabilitation and skills-training programs for trafficking victims. NGOs that provide both shelter and skills-training include: ABC Nepal, Maiti Nepal, Saathi, Sahara, Peace Rehabilitation Center, the Esther Benjamim Trust, Women's Rehabilitation Center (WOREC), Shakti Samuha, Change Nepal,

and the Women Awareness Center. Other Nepali NGO's and organizations working on legal aspects, public education and/or trafficking research include the Kathmandu School of Law, Nepal Institute of Development Studies, Center for Legal Research and Resource Development, Aawaj, Legal Aid and Consultancy Center, Pro-Public, Pourakhi, Forum for Women, Law and Development and Women for Human Rights. International organizations working on both sexual and labor exploitation trafficking issues in Nepal include: UNIFEM, UNICEF, UNAIDS, UNODC, the ILO, the Asia Foundation, the Daywalka Foundation, the International Organization for Migration (IOM), Terre des Hommes, Hoste Hainse, Ray of Hope, World Education, the Lutheran World Federation-Nepal, Save the Children, and Planete Enfant. Central and local authorities cooperate fully with NGOs. With the GON's endorsement, many NGOs conduct public information and outreach campaigns in rural areas. They also provide prevention education, micro-finance, rehabilitation, advocacy and legal assistance. Two representative NGOs are members of the MWCSW's National Task Force, and the GON works closely with NGOs to provide services to victims and assist in the implementation of the National Plan of Action.

The GON lacks the resources (funds, personnel and training) to provide direct assistance to trafficking victims, as well as funding to NGOs to support their work. The political and economic crisis in the country has sidelined the issue of trafficking and donor funding has decreased dramatically over the past three to four years. In 2007 many trafficking projects ended while demand continues to increase.

14. PREVENTION:

-- A. Does the government acknowledge that trafficking is a problem in the country? If not, why not?

The GON acknowledges publicly that trafficking is a national problem and has expressed its commitment to address the issue. The Anti-Trafficking Act passed in 2007 by the Interim Parliament, as well as commitments by the 7 political parties in the governing coalition to include the fight against human trafficking in their party manifestos demonstrates a certain political will to seriously address the problem. However, the GON's implementation and financial commitment to the problem remain weak.

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-- B. Are there, or have there been, government-run anti-trafficking information or education campaigns conducted during the reporting period? If so, briefly describe the campaign(s), including their objectives and effectiveness. Please provide the number of people reached by such awareness efforts if available. Do these campaigns target potential trafficking victims and/or the demand for trafficking (e.g. "clients" of prostitutes or beneficiaries of forced labor)?

The GON declared September 6 (20 Bhadra in the Nepali calendar) National Anti-Trafficking Day. The occasion was marked by a 3-day program involving over 40 organizations. The program included a rally and an extensive information campaign. In addition, all seven governing political parties signed a declaration committing to the fight against human trafficking.

In 2007 there were several government-run anti-trafficking information and education campaigns. In collaboration with donor agencies, NGOs and INGOs the GON supported programs focused on awareness raising, advocacy and lobbying, income generation, health, education, research, safe migration, surveillance, reintegration and prepared radio programs, audio-visual presentations, booklets, pamphlets and signboards aimed at preventing trafficking among vulnerable groups. Other NGO-supported trafficking projects included various non-formal education and literacy projects, legal and vocational training and projects to create gainful employment

opportunities and promote community mobilization.

According to the National Plan of Action, task forces in 26 high-risk districts are mandated to identify trafficking-prone areas, conduct awareness-raising campaigns, collect data on trafficking, disseminate trafficking-related information and coordinate to address the issue of trafficking. In 2007 the MWCSW provided small grants to these task forces to conduct activities such as awareness raising and community mobilization at the district and village level.

The Nepal Police have established local-level Women and Children Service Centers as part of their community policing efforts. The Centers are part of the Government's anti-trafficking efforts and operate with a combined mandate of law enforcement, counseling and public awareness. There are currently 25 of these centers in 23 districts. To address trafficking the WCSC has launched a social-awareness raising program and is working on building a strong network to provide information and intelligence. The WCSC has deployed vigilance team in the Nepal-India border areas to build investigation capacity through various training programs and to launch victim support programs in cooperation with both other government and non-government organizations.

The Office of the National Rapporteur for Trafficking (ONRT) launched a television and radio public service announcement to make women more aware of trafficking schemes and the possibility that their husbands could be involved. The ONRT also conducted media and trafficking research to investigate the impact of media campaigns on trafficking and prepared a profile of the NGOs and INGOs working to combat trafficking. The ONTR is currently working on a report to determine the best strategies for combating trafficking by looking at discrimination and the denial of economic, social and cultural rights in west Nepal.

Encouraging children to stay in school is a large component of the government's campaign to eliminate child labor and prevent trafficking. The GON has national 'Welcome to School' campaigns to enroll and retain children in school in

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order to keep them out of the work-force or from being trafficked. Annual enrollment campaigns, scholarships for disadvantaged students, increased resources at the school level, increased community participation in school management and liberal promotion are additional GON policies aimed at increasing enrollment and retaining children in schools. This has resulted in an increase in the numbers of children, particularly girls, attending school and completing high school.

The GON's National Child Labor program aims to prevent trafficking in children. The GON has also increased supervision and monitoring of children's homes suspected of trafficking in children. The U.S. Department of Labor (DOL)-funded "Timebound" and "Brighter Future" projects address child trafficking. The second phase of the Brighter Future Program will be implemented in 26 districts and in 8 sectors identified as suffering the worst forms of child labor. The program supports trafficking victims through non-formal education, vocational training and formal school and aims to rehabilitate 800 trafficking victims through educational and vocational interventions.

The Ministry of Education and Sports publishes a newsletter annually and operates programs in all 75 districts to create awareness among parents about the importance of sending their children to school. Programs include street dramas and public service announcements through Radio Nepal.

Efforts by the GON, INGOs and NGOs to raise public awareness have resulted in the interception of potential trafficking victims within communities and at the Indo-Nepal border and

increasingly positive acceptance of victims by the community and family. Increased parental awareness has made parents less susceptible to releasing their children to traffickers who make false promises.

-- C. What is the relationship between government officials, NGOs, other relevant organizations and other elements of civil society on the trafficking issue?

The relationship between government organizations, NGOs and INGOs remains cooperative and productive. The MWCSW fosters a collaborative relationship with donors and NGOs in joint pursuit of anti-trafficking goals. In 2007, MWCSW, UNIFEM and USAID implemented a cross-border initiative in two districts to: facilitate safe migration; conduct effective interception, rescue and repatriation; strengthen the vigilance cells operated by local NGOs; and build media capacity for investigative reporting to educate the public. Similarly, other line agencies of the government also work in collaboration with UNIFEM, ILO and the International Organization for Migration (IOM) to combat human trafficking in the sexual and labor markets.

-- D. Does the government monitor immigration and emigration patterns for evidence of trafficking? Do law enforcement agencies screen for potential trafficking victims along borders?

Nepal's open land border with India makes stringent monitoring of immigration and emigration for evidence of trafficking very difficult. The MLTM has established a "safe migration" desk at the Kathmandu's Tribhuvan International Airport to screen migrant workers and discourage illegal immigration. However, to avoid screening, many trafficking victims travel to India via land borders and then leave for destination countries from Indian airports.

The GON, in cooperation with a number of NGOs, has established cross-border initiatives to develop mechanisms to

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intercept potential victims and traffickers at Indo-Nepal crossings and rescue and repatriate victims from India. INGO Planete Enfant, along with local NGOs ABC Nepal and Saathi, has border checkpoints in thirteen districts to intercept potential victims. Among them, vigilance centers were installed in five districts and mobile vigilance is carried out in eight districts. Additionally, Maiti Nepal and Saathi employ trafficking survivors to work with law enforcement along the border to intercept and screen suspected trafficking victims.

-- E. Is there a mechanism for coordination and communication between various agencies, internal, international, and multilateral on trafficking-related matters, such as a multi-agency working group or a task force? Does the government have a trafficking in persons working group or single point of contact? Does the government have a public corruption task force?

The International Agencies Coordinating Group on Trafficking (IACG) includes bilateral donors, INGOs, and UN agencies. The IACG acts as the mechanism for donor coordination and communication on trafficking-related matters. It meets periodically to provide updates on current efforts, avoid duplication and make proper use of resources in combating trafficking. The GON has established a national and district task force in 26 districts. The Government's national task force against trafficking also coordinates and facilitates among government agencies and NGOs. The national task force is the GON's point of contact on trafficking matters. The Office of the National Rapporteur on trafficking (ONRT) under the National Human Rights Commission monitors and prepares reports on Government anti-trafficking initiatives. The Commission for the Investigation of the Abuse of Authority (CIAA) investigates public corruption.

-- F. Does the government have a national plan of action to address trafficking in persons? If so, which agencies were involved in developing it? Were NGOs consulted in the process? What steps has the government taken to disseminate the action plan?

In 2003 the GON adopted a national policy and supporting plan of action to combat trafficking in women and children and their commercial sexual exploitation. The policy and plan were developed in consultation with the ILO, NGOs and relevant government agencies, including the Ministries of Home, Law, and Local Development. The main features of the 13-point policy are:

- Public awareness campaigns against human trafficking will be implemented on a large scale.
- Action will be taken to remove laws that discriminate against women.
- The GON, NGOs, INGOs and private sector will be mobilized to combat human trafficking.
- The MWCSW will act as the national focal point for carrying out all anti-trafficking activities.
- The GON will open doors for bilateral and multilateral cooperation to combat trafficking.
- The GON will protect the human rights of women and children.
- Offenders will be heavily fined and the proceeds used to compensate victims.
- Steps will be taken to control the spread of HIV/AIDS as this is associated with trafficking and commercial sexual exploitation of women and children.
- The GON will take the necessary steps to alleviate poverty and provide employment opportunities to women.
- The GON will establish co-ordination committees at the national, district and municipal levels to control

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trafficking.

- Commitment from all political parties will be taken to control trafficking.
- Joint programs with the non-governmental organizations will be carried out for the safe rehabilitation and reintegration of the survivors of trafficking.

The plan of action identifies eight strategic areas of developmental intervention to combat trafficking. The broad headings of these interventions are as follows:

- 1. Policy, research and institutional development.
- 2. Legislation and enforcement.
- 3. Awareness creation, advocacy, networking and social mobilization.
- 4. Health and education.
- 5. Income and employment generation.
- 6. Rescue and reintegration.
- 7. Trans-border, regional and international issues.
- 8. Monitoring and evaluation.

The Ministry of Women, Children and Social Welfare (MWCSW) has primary responsibility for the development and coordination of the Government's anti-trafficking efforts. The MWCSW has instituted a National Task Force against Trafficking, which includes personnel from the Ministries of Labor and Transportation Management (MLTM), Local Development, Home, Health, Foreign Affairs, Education and Sports, and Law, Justice and Parliamentary Affairs; the National Planning Commission; and the Nepal Police. The ILO, United Nations Children's Fund (UNICEF) and two anti-trafficking NGOs (ABC Nepal and Maiti Nepal) are also members. The National Task Force against Trafficking meets twice a year.

The Plan of Action is being implemented in 26 high-risk districts with most efforts focused on prevention and the GON has had success in getting and keeping girls in school. However, many NGOs and other organizations working to combat

trafficking indicate that the Plan is not used much and has become seriously outdated. The Plan focuses mainly on trafficking of girls and women to India for commercial sex work and does not sufficiently address the internal trafficking of women and children or labor trafficking.

-- G: For all posts: As part of the new criteria added to the TVPA's minimum standards by the 2005 TVPRA, what measures has the government taken during the reporting period to reduce the demand for commercial sex acts? (see ref B, para. 9(3) for examples)

Although enforcement remains an issue, the new Anti-trafficking Act criminalizes having sex with a prostitute.

-- H. Required of Posts in EU countries and posts in Canada, Australia, New Zealand, Japan, China, Singapore, South Korea, Taiwan, and Hong Kong: As part of the new criteria added to the TVPA's minimum standards by the 2005 TVPRA, what measures has the government taken during the reporting period to reduce the participation in international child sex tourism by nationals of the country?

-- I. Required of posts in countries that have contributed over 100 troops to international peacekeeping efforts (Argentina, Australia, Austria, Bangladesh, Belgium, Benin, Bolivia, Brazil, Burkina Faso, Cambodia, Cameroon, Canada, Chile, China, Denmark, Egypt, Ethiopia, Fiji, Finland, France, Gambia, Germany, Ghana, Greece, Guatemala, Hungary, India, Indonesia, Ireland, Italy, Jordan, Kenya, Malawi, Malaysia, Mali, Mongolia, Morocco, Namibia, Nepal, the Netherlands, Niger, Nigeria, Pakistan, Peru, Philippines,

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Poland, Portugal, Qatar, Romania, Russia, Rwanda, Senegal, Slovakia, South Africa, Spain, Sri Lanka, Sweden, Tanzania, Togo, Tunisia, Turkey, Ukraine, United Kingdom, Uruguay, Zambia, and Zimbabwe): What measures has the government adopted to ensure that its nationals who are deployed abroad as part of a peacekeeping or other similar mission do not engage in or facilitate severe forms of trafficking or exploit victims of such trafficking?

Nepali nationals who are deployed abroad as part of a peacekeeping or other similar mission must attend a course at the Birendra Peace Operations Training Center operated by the Nepalese Army before they are deployed. Training at the center includes information on human trafficking and the exploitation of victims of such trafficking.

15. NOMINATION OF HEROES AND BEST PRACTICES

-- A. HEROES. The introduction to the past three TIP Reports has included a section honoring Anti-Trafficking "Heroes" who came to G/TIP's notice during the preceding year as individuals or representatives of organizations that demonstrate an exceptional commitment to fighting TIP above and beyond the scope of their assigned work. Department would encourage post to nominate such individuals for inclusion in a similar section of the 2008 Report. Please submit, under a subheading of "TIP Hero(es)," a brief description of the individual or organization's work, and note that the appropriate individual(s) have been vetted through databases available to post (e.g. CLASS and any law enforcement systems) to ensure they have no visa ineligibilities or other derogatory information.

We would like to nominate the Esther Benjamins Memorial Foundation Rescue Team of Bhim Lama, Ganesh Shrestha and Kumar Giri. They have liberated in excess of 280 Nepali girls from a life of misery in Indian circuses since 2004. Amidst threats of beatings and intimidation, they have made 40 rescue missions into Indian circuses. In Nepal they have apprehended 6 agents who had trafficked the girls leading to some of these agents serving terms of up to 20 years.

-- B. BEST PRACTICES. For the past four years the Report has carried a section on "Best Practices" in addressing TIP. This section highlights particular practices used by governments or NGOs in addressing the various challenges of TIP and serves as a useful guide to foreign governments and posts as they design anti-TIP projects and strategies. The Department encourages post to nominate "best practices" from their host countries for showcasing in the 2008 Report. Please submit, under a "Best Practice" subheading, a brief summary of the activity or practice, along with the positive effect it has had in addressing TIP.

In 2006 and 2007, USAID partnered with UNIFEM and the MWCSW to implement a pilot project in two districts on the Indo-Nepal border. The project was designed to encourage the involvement of the GON's Women Development Officers, who are present in almost all of Nepal's 75 Districts. The project identified various stakeholders, including law enforcement agencies, media, leaders of faith-based organizations, academics, local NGOs and non-traditional stakeholders such as youth groups, transport workers, women's groups, trade unions and medical professionals, and invited them to attend workshops to inform them about the problem of human trafficking in their communities. Through these workshops informal community networks were established to combat trafficking, influence behavior and policy changes and support existing programs working to identify and assist potential victims. The program was recognized as a good and replicable practice at an international forum on trafficking.

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More importantly, the program targets prevention efforts in communities where trafficking can be stopped before potential victims are harmed.

In August, the Kathmandu School of Law released a regional study involving legal research from India, Bangladesh and Nepal. The study indicated that a new approach to combating trafficking was needed to end human trafficking. The study revealed that human trafficking in South Asia could not effectively be addressed without applying a unified legal approach with focused on both the source and destination sides of trafficking. The study makes recommendations for harmonizing regional anti-trafficking legal frameworks, policies and programs, and encourages cooperation at the regional level to place anti-trafficking responses in the context of international human rights standards.

16. (U) POINT OF CONTACT AND REPORTING TIME

-- A. Point of contact on trafficking is Political/Economic Officer Carla Bachechi; phone 977-1-400-7200, fax 977-1-400-7270; email BachechiCL@state.gov.

-- B. OMB Reporting Requirements: A Political/Economic Officer, FS-04, spent 58 hours researching, drafting, and clearing this report. Two political/economic FSNs worked on research for the report: FSN-11 spent 12 hours and FSN-7 spent 16 hours. An FSN-11 at USAID spent 24 hours researching and editing content of the report. The Political/Economic Chief, FS-02, spent 2.5 hours; the Acting Regional Security Officer, FS-03, spent 1 hour; the USAID Program Officer, FS-03, spent 2 hours; the DCM, FS-01, spent 2 hours; and the Ambassador, SFS, spent 2 hours clearing the report.

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